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Mayor

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CITY OF YONKERS  
POLICE DEPARTMENT

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February 20, 2019

MuckRock News  
Mike Davis  
DEPT MR 64280  
Somerville, MA 02144-2516

Re: FOIL Request      238-2018

Mr. Davis

FEB 20 PM 2:18

Please see the attached records in regards to your FOIL Request. Thank you.

Lt. Stephen Gratzon  
YPD Records Access Officer

Any appeal from the foregoing determination must be submitted within 30 days to:

Matthew Gallagher  
Corporation Counsel  
City of Yonkers  
40 South Broadway, Room 300  
Yonkers, New York 10701

Yonkers Police Records Unit  
914-377-7232    914-377-7234



# POLICY & PROCEDURE MANUAL

Section: General Regulations, Uniforms & Equipment:		PAGE(S) 1 of 8
Subject: <b>ELECTRONIC CONTROL DEVICES (ECD)</b>		<b>120-26</b>
UPDATES: 120-26 (01/06/2015)	DATE EFFECTIVE: 12/22/2017	

## PURPOSE

To identify circumstances justifying the deployment and use of Electronic Control Devices (ECD) and establish procedures to be followed before, during, and after their use.

## POLICY

The use of Electronic Control Devices is reserved for those incidents in which lesser means of force have failed, are not appropriate, or would result in a greater risk of injury to the suspect, officer, or third party. The use of any ECD must be reasonable in light of the known circumstances of a given incident, and in accordance with Department policies.

## DEFINITIONS

- Electronic Control Devices (ECD)** – An ECD is a less lethal, conducted-energy weapon that uses high voltage electrical waves delivered to a remote target to overpower the normal electrical signals within nerve fibers of the body, thereby controlling and affecting the central nervous system of the body.
- Taser X-26 and X-26P**– A Taser X-26/ X-26P is an ECD that uses compressed air and inert Nitrogen to propel two barbs connected by wire from the weapon to a remote target, thereby controlling and affecting the central nervous system of the target's body. The X-26/ X-26P system is a seven-watt system that uses short duration, high voltage electrical waves. A laser dot is used for placement of the top probe, and the lower probe is fired simultaneously at an eight-degree downward angle. For each seven feet of travel distance between the X-26/ X-26P and the intended target, the probes separate by one foot.
- Deployment – pointing the Taser at an individual as a use of force.
- Application – anytime a Taser is discharged at a subject using the dart option or drive stun.

## PROCEDURE

### Carrying Electronic Control Devices

- Members of the Department who have been trained in the use of the Taser X-26/ X-26P shall carry it in a Department-approved holster secured to the gun belt. The holster containing the device should be secured to the gun belt in a location that is easily accessible to the officer but on the non-shooting side separate from the Department-issued firearm.
  - All uniformed members of patrol shall carry and/or utilize the Taser X26/X26P which is to be issued at roll call as an essential part of the uniform while on duty. As with all Department-issued equipment, it is the responsibility of all personnel to safeguard issued equipment.

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- b. The issued Taser X26/X26P shall be carried and/or utilized only as issued and authorized, and no changes, alterations, modifications, or substitutions shall be made to or in place of the issued Taser X-26/X-26P, except markings for identification, added by the Training Division.
  - c. The use of the issued Taser X26/X26P must conform to department training received by members from certified police Taser X26/X26P instructors.
  - d. Members other than those assigned to patrol, uniformed or non-uniformed, will be issued an ECD based on circumstances related to their official duties at the discretion of their supervisor.
  - e. In the event there are not enough ECD units available to equip each member of a tour in a given precinct the patrol Sergeant will ensure that each patrol unit will be equipped with at least one ECD device.
2. No member of the Yonkers Police Department is authorized to carry or use an ECD while on duty until successful completion of a certified course of instruction in the proper use of the ECD. The ECD shall be used as a defensive means of control in response to active resistance.
3. At the start of each tour of duty, members of the department, authorized to carry an ECD, shall sign out the ECD in the ECD Log Book kept at each precinct/command. The Desk Officer shall maintain the ECD Log Book and the Commanding Officers shall be responsible to ensure that all entries are timely and correct. No ECD shall be issued for use with less than 20% charge in the device's battery.
4. At the beginning of each tour, the ECD will be inspected to ensure operability. The assigned member or member designated by a supervisor shall:
  - a. Point the ECD in a safe direction.
  - b. Remove cartridge from ECD. Taking care to keep hands away from the front of the cartridge.
  - c. Release the safety, (Place safety in the "off" setting).
  - d. Ensure that the laser is visible and the battery status lights indicate the battery is charged.
  - e. Conduct spark test. Officers should never remove a cartridge in order to display an electric arc, except when conducting a spark test at the beginning of the tour.
  - f. Engage safety.
  - g. Attach cartridge to the ECD. Make sure to keep hands away from the front of the cartridge.
5. Members of service issued an ECD for the tour shall note the device number in their police notebook along with their daily entry.
6. Members of service issued an ECD shall return the ECD at the completion of their tour of duty.
7. ECD cartridges must be removed and secured away from the ECD prior to conducting The inspection and spark test.
8. Accidental discharges resulting in injuries may occur if a cartridge is left attached to the ECD while conducting the inspection. Accidental discharges shall be documented by the immediate supervisor.

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## Use of the Taser X-26/ X-26P

1. ECDs can be an effective means of subduing a subject in a safe manner and consistent with the requirements of Policy & Procedure 120-3 Use of Force. An ECD is also intended to augment and provide a greater margin of safety for officers who might otherwise be forced to subdue a dangerous subject with a greater amount of force.
2. Unless it would otherwise endanger officer safety or is impractical due to the circumstances, a vocal announcement of the intent to use the ECD shall precede the application of the device in order to:
  - a. Provide the individual an opportunity to comply voluntarily.
  - b. Provide other officers and individuals with warning that the ECD may be deployed.
3. The electric arc or laser aiming device should never be intentionally aimed or directed into the eyes of another as it may permanently impair vision.
4. The fact that a vocal and/or other warning was given, or the reason that it was not given, shall be documented on the YPD-91 Use-of-force Report and in any other related reports.
5. The Taser X-26/ X-26P may be used in two modes of operation: dart option and drive stun.
  - a. When using the dart option, the operator should be able to safely approach the suspect between seven and 21 feet. Do not use the ECD at a distance greater than 21 feet. Do not aim at the suspect's head, neck, or genital area. The upper chest area should be avoided when possible.
  - b. Absent emergency circumstances, the drive stun option should only be used when the officer can safely approach within arm's length to complete the circuit to achieve neuro-muscular incapacitation (NMI).
  - c. The drive stun can be used to complete a circuit to achieve neuro-muscular incapacitation in the event one dart does not make contact with the individual's skin.
  - d. A drive stun may be used under exigent circumstances after initial discharge with cartridge attached. This may include but not be limited to:
    - a. Attempting to gain control of an individual when the ECD has been discharged at an individual but has not achieved neuro-muscular incapacitation.
    - b. Attempting to gain control of an individual who is actively resisting officers actions and other means of subduing the individual are not appropriate.
    - c. When exigent circumstances exist.
6. Whenever an ECD is to be deployed, the deploying officer should attempt, when possible, to notify other officers on scene that it is an ECD going to be discharged. The announcement "Taser, Taser" to alert other officers is appropriate.
7. Officers shall discharge the ECD for no more than one five second cycle before stopping to evaluate the situation. During the assessment, officers should give clear commands to the subject to achieve compliance and assess the subject's ability to hear and comply with verbal Taser warnings and commands.
  - a. As subjects are often unable to hear or respond to commands during the cycling of the ECD, officers shall not give commands during the 5 second ECD cycle.
  - b. Officers should not interpret the subject's failure to respond to commands during the cycling of the ECD as active resistance.
8. More than two ECD applications directed against one subject during a single incident will be considered a Level 3 Critical Use of Force in accordance with Policy and Procedure 120-5 Reporting Use of Force.
9. Anytime an ECD is deployed against a subject, it shall be considered a Level Use of Force as outlined in Policy and Procedure 120-5.

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10. Anytime an ECD is pointed at an individual it must be in the on position to record the incident and the will remain in the on position until holstered. A supervisor will be notified and ensure that video evidence is properly downloaded at CSU.
11. Officer's will have the discretionary authority to turn on the Taser in the concealed ready position if in their judgment they need to record audio of an incident which may lead to a use of force. A supervisor will be notified and ensure that the video evidence is properly down loaded at CSU.

## Other Considerations in ECD Use

1. Department members shall not discharge more than one ECD simultaneously at a subject.
2. Prior to deploying an ECD, and subject to Policy and Procedure 120-3 officers should consider such factors as:
  - a. The severity of the offense.
  - b. Any immediate threat to the safety of the officer(s) or others posed by the subject.
  - c. The ability of the officer(s) to safely effectuate the arrest without deployment.
  - d. Whether de-escalation techniques may be used.
  - e. An ECD should not be deployed solely based on a subject's flight.
3. The following guidelines shall be followed subsequent to ECD deployments.
  - a. When the Taser X-26/ X-26P is deployed but not discharged, the ECD unit shall be taken to the Crime Scene Unit by a supervisor. As soon as possible, the video component of the ECD will be downloaded to a Department computer and maintained as evidence prior to the ECD unit being placed back into service.
  - b. When a Taser X-26/ X-26P is deployed and probes are discharged or a drive stun has been delivered, the ECD will be removed from service by a supervisor and brought to the Crime Scene Unit. The video will be downloaded to a Department computer and maintained as evidence. The ECD will be transported to the Training Division and inspected to ensure that it is ready for service.
  - c. The ECD shall be property clerked as evidence in accordance with Policy 180-1 Collection and Preservation of Evidence when:
    - The Taser X-26/X-26P discharge results in a subject being admitted to a hospital, serious
      - physical injury or death
    - The usage of the Taser X-26/X-26P is in direct violation with the procedures set forth in this
      - policy
    - When requested by a supervisor
  - d. Appropriate medical treatment shall be provided after an application as provided below.
- 4 Careless storage of the ECD, failing to report damage of the ECD, or failing to log out the ECD in accordance with Department policy may result in disciplinary action.

## Deployment of ECDs against Animals

1. Officers may use an ECD against animals if the officers reasonably believe that the animal is vicious and is threatening and/or attacking another officer, citizen, or other animal, and that the use of other force would not be appropriate or safe.

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2. Officers should be prepared to act quickly with other restraint devices once an ECD has been deployed against an animal. In all cases, the officers' safety and the safety of the public shall be considered prior to deployment.
3. Officer shall use reasonable care when deploying an ECD when a police K-9 is near a subject against whom the ECD is about to be deployed.

## Prohibited Use of the ECD

The ECD **will not be used** for any of the following:

1. Coercion of any type such as, but not limited to, extracting evidence or recovering contraband.
2. Intimidation by reckless display during, but not limited to, interrogations.
3. Removal of a cartridge in order to display an electric arc as a means of intimidation or coercion.
4. Escorting or prodding individuals or to awaken individuals.
5. Against individuals operating a motor vehicle/motorcycle.
6. Against persons exposed to Oleoresin Capsicum.
7. Against visibly pregnant females or females that are known to be pregnant
8. When a subject is positioned in such a way that a fall may cause serious injury or death, for example, on a rooftop, near a high ledge, a fire escape, climbing a fence or wall, near a body of water, etc.
9. When a subject is in close proximity to gasoline or other flammable, explosive materials or vapors that ECD devices might ignite.
10. In an elementary school or against children under 12 years old, unless not utilizing the ECD would create a greater risk of injury to the subject, innocent bystanders, or police officers. Other less-than-lethal methods should be considered first.
11. Against the elderly or against individuals with apparent physical disabilities impairing their mobility, unless not utilizing the ECD would create a greater risk of injury to the subject, innocent bystanders, or police officers.
12. Against individuals with apparent mental disabilities, when the disability would impair the subject's ability to understand and/or respond to commands, unless not utilizing the ECD would create a greater risk of injury to the subject, innocent bystanders, or police officers.
13. Against any person(s) who is Passively Resisting as defined in Policy and Procedure 120-3 Use of Force

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14. On handcuffed subjects, or subjects who are physically restrained.

15. In any type of punitive manner.

## Medical Attention

1. Circumstances permitting, officers shall request emergency medical personnel to respond when it is anticipated that an officer will deploy an ECD against a subject.
2. Should circumstances not allow for prior notification of emergency medical personnel, emergency Medical Service (ambulance) shall be dispatched to the scene after a person has been exposed to the ECD discharge, to render aid and transport the individual to the nearest possible hospital for treatment, unless EMS protocol calls for transport to a regional trauma center.
3. Only medical personnel should remove any probes that have penetrated the skin of a subject. The ECD operator shall break the ECD wire by hand approximately 4 to six 6 inches from the dart on the X-26/ X-26P. Taking into account the circumstances, including the status of the subject, the ECD operator may render reasonable aid as necessary.
4. All persons subjected to either probes or a drive stun shall be transported to the nearest possible hospital for treatment, unless EMS protocol calls for transport to a regional trauma center. Hospital staff shall be advised as to the number and duration of cycles the subject received, as well as any other pertinent information.
5. If a cartridge was discharged, and the darts or nose assembly did not make any contact with the subject (skin, clothing etc.), the wire connecting the dart to the cartridge may be broken by hand and the probes shall be disposed of in a "sharps" container. Universal precautions and proper personal protection equipment shall be utilized during handling of probes.

## Training and Qualifications

1. All officers authorized to carry a Taser must complete a recertification course on an annual basis.
2. Police Officers shall carry Department-issued Taser X-26/ X-26P only after they have demonstrated proficiency in its use. Proficiency shall be demonstrated and documented through an official ECD qualification and/or re-qualification course administered by the Department's certified ECD instructors. The qualification/re-qualification course will include, but not limited to, the following:
  - a. The officer will demonstrate proficiency in hitting a target from 10 to 15 feet away with a non-energized Taser X-26/ X-26P unit.
  - b. Each officer must be familiar with the nomenclature and recognized safe handling procedures for the use of the Taser X-26/ X-26P unit and pass a written exam dealing with the procedures for and effects of deploying an ECD.
  - c. Officers will participate in scenario-based training exercises.
  - d. Any officer unable to complete this training will be given remedial training and will not be issued a Taser X-26/ X-26P unit until successful completion of the course.
3. During the initial certification or annual recertification-training, ECD instructors will review, inspect, and approve all ECDs and holsters and remove and replace any unsafe ECDs or holsters.
4. Prior to being authorized to carry the Taser X-26/ X-26P, personnel shall be instructed in the authorized and proper use of force as provided in 120-3 Use of Force.

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5. The Training Division shall:
  - a. Maintain records for all devices issued.
  - b. Maintain records of all certifications and re-certifications.

## Reporting and Notifications

1. In every instance of the pointing or discharge of an ECD, the officer involved shall:
  - a. Notify his/her immediate supervisor.
  - b. Complete and submit a YPD-91 Use-of-Force Report.
  - c. Complete an Incident Report, which should include the following information:
    - The circumstances that required the use of the ECD.
    - The manner in which the ECD was used, number of discharges, and a description of the location of the probes.
    - Documentation of any injuries sustained by the subject during deployment of the ECD.
    - The subject's physical reaction to the ECD. Indicate whether the subject was immediately incapacitated or if more than one discharge was required.
    - Any pre-existing injuries to the subject, if they are known or can be determined through investigation.
    - The name of the medical facility where the subject was treated after the ECD discharge.
    - The time of treatment, the doctor's name, the diagnosis, and type of treatment.
    - The disposition of the incident, e.g., criminal charges filed, admitted for psychiatric evaluation, released from custody, etc.
  - d. The reporting officer shall place into evidence all Taser probes, used cartridges in accordance with Policy and Procedure 180-1 Collection and Preservation of Evidence and Property.
2. The immediate supervisor who is notified of the incident shall:
  - a. Notify the Duty Captain or respective Patrol Lieutenant.
  - b. Investigate the circumstances of the ECD usage and document the investigation in Blue Team.
  - c. Request that a crime scene technician respond to the scene and photograph the subject's injuries. If CSU is not available, the precinct/unit digital camera may be used and the images saved into the appropriate file or folder.
  - e. Ensure that all reports are prepared and submitted by the end of the tour of duty during which the ECD was used. In the event that a member is unable to complete reports due to injuries, the supervisor will document this and follow up when possible.
  - f. Review the YPD 91(s) Use-of-force Report and all related reports for completeness and accuracy.
  - g. Ensure that the ECD is removed from service and brought to the Crime Scene Unit.
3. The Commanding Officer shall:
  - a. Ensure that a thorough investigation was conducted and that all reports were prepared and submitted.
  - b. Review all submitted reports in accordance with Policy & Procedure 120-5 Reporting and Investigating Use of Force.
4. The Police Commissioner, or designee, will conduct a quarterly analysis of the Use-of-Force Reports (YPD-91) to determine patterns that may indicate training needs or policy violations.
5. In any incident where an ECD is accidentally discharged, the officer



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shall promptly notify his/her immediate supervisor. The supervisor shall investigate the incident to determine if a violation of this policy has occurred, and document the incident in Blue Team.

## Maintenance

1. The X-26/ X-26P ECD's digital power magazine (DPM) shall not be removed from the ECD.
2. No ECD should be issued for field use with a charge of less than 20%. Remaining charge is checked during daily spark testing. It shall be the responsibility of each command's duty supervisor working the Sunday day tour to charge, or cause to be charged, the ECD units. It takes about three hours to fully charge a low ECD battery. If the unit does not charge properly, or appears to be malfunctioning, it shall be brought directly to the Training Division for inspection, maintenance, and repair.

## RELATED PROCEDURES

120-3: Use of Force

120-5: Reporting Use of Force

180-1: Collection and Preservation of Evidence and Property

140-3: Arrest Policy